

Anthony P. Scardino: Statutorily Unqualified to Lead the PTO

According to a widely circulated Governmental response to a FOIA request by highly respected Professor Dennis Crouch, the FOIA answer states that the successor to head the PTO is Anthony P. Scardino, upon the vacancy by the incumbent, the Hon. Michelle K. Lee. (She is stated to currently still occupy her position.)

Mr. Scardino, Highly Respected and Qualified in Financial Matters:

As explained in the pdf version of this note, Mr. Scardino is undoubtedly highly qualified and respected in his current financial oversight position within the PTO.

Statutory Qualifications for Director of the PTO: As explained in the pdf version of this note, Mr. Scardino is not statutorily qualified to hold either of the two top leadership positions of the Office.

A Scardino Appointment would be in Violation of a DDO Order:

Neither is Mr. Scardino able to succeed Ms. Lee under the Commerce Department line of succession for the position of Director which is governed by a Commerce Department Organization Order, as also explained in the PDF version of this note.

Mr. Scardino, Blameless: There is no indication that Mr. Scardino is anything other than a personally blameless and honorable civil servant.

Regards,
Hal

Mr. Scardino, Undoubtedly Qualified as a Financial Expert: Mr. Scardino is undoubtedly highly qualified for his present position in the Patent Office as seen from his impressive biography on the PTO website:

“Mr. Scardino comes to the USPTO from the Department of Housing and Urban Development (HUD), where he was most recently the Assistant CFO for Budget. There he oversaw a budget of more than \$45 billion and an additional \$13.6 billion in Recovery Act funds.

Anthony Scardino: Statutorily Unqualified to Head the Patent Office

“While serving as the Assistant CFO for Budget at HUD for almost four years, Mr. Scardino was a key advisor to the HUD Secretary on all financial matters and acted as a principal liaison official with all oversight entities for HUD. In addition to his regular duties, Mr. Scardino spent most of the last year serving as the Department's Acting Deputy CFO. In this capacity, he was responsible for the Department's budget, accounting, financial management, financial systems, financial reporting and appropriations law issues.

“Mr. Scardino has a bachelor of art degree in political science from the State University of New York at Geneseo and a Master of Public Administration degree from the State University of New York at Albany. Scardino has recently attained his Certified Government Financial Management (CGFM) certification with the Association of Government Accountants and is a recent graduate of Harvard's John F. Kennedy School of Government's Senior Managers in Government program.”

Mr. Scardino, Statutorily Unqualified to Head the PTO: Mr. Scardino is undoubtedly a fine man. This writer has never met the gentleman, but has never heard a bad word of any kind said about him. But, insofar as the law is concerned, and as stated on the PTO website, Mr. Scardino has “a bachelor of art degree in political science from the State University of New York at Geneseo and a Master of Public Administration degree from the State University of New York at Albany” and without professional experience in patent law, and hence is unqualified to be either Under Secretary or Deputy Under Secretary of the Patent Office. As stated in 35 USC § 3(a)(1) the “Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office *** shall be a person who has a professional background and experience in patent or trademark law.” (Under 35 USC § 3(b)(1), “[t]he Deputy Director shall *** [have] a professional background and experience in patent or trademark law.”)

[Anthony Scardino: Statutorily Unqualified to Head the Patent Office](#)

Improper Designation to be the Statutory Successor to Ms. Lee: According to an expert who prefers to remain anonymous:

1. The USPTO's FOIA response to Dennis Crouch on March 10, 2017 states that USPTO Chief Financial Officer ("CFO") "Anthony P. Scardino is the Acting Deputy Director of the United States Patent and Trademark Office."

<https://patentlyo.com/patent/2017/03/michelle-director-trademark.html>

2. CFO Scardino's biography is posted here: <https://www.uspto.gov/about-us/executive-biographies/anthony-p-scardino>

3. 35 USC 3(b)(1) states that the "Deputy Director shall be a citizen of the United States who has a professional background and experience in patent or trademark law."

4. The position of Deputy Director has been ***vacant*** since the resignation of Russ Slifer.

5. The line of succession in the event of vacancy or absence in the positions of the Director and Deputy Director is governed by Commerce Department Organization Order ("DDO") 10-14: http://www.osec.doc.gov/opog/dmp/doos/doo10_14.html Sections 2.04 through 2.07 of DDO 10-14 state:

§ 2.04 If the position of the Under Secretary is ***vacant***, the Deputy Under Secretary shall serve as Acting Under Secretary. If both the Under Secretary and the Deputy Under Secretary positions are ***vacant***, the Commissioner for Patents and the Commissioner for Trademarks, in that order, will perform the functions and duties of the Under Secretary. In the event there is no Commissioner appointed under 35 U.S.C. 3(b)(2), the Administrator for Policy and External Affairs, Chief Financial Officer, Chief Administrative Officer, or the General Counsel of the USPTO, in order of length of service to those positions, shall perform the functions and duties of the Under Secretary.

Anthony Scardino: Statutorily Unqualified to Head the Patent Office

§ 2.05 In the event of the *absence* of the Under Secretary, the Deputy Under Secretary shall serve as the Acting Under Secretary. In the event of the absence of the Under Secretary and Deputy Under Secretary, the following officials may be designated to perform the functions and duties of the Under Secretary: the Commissioner for Patents, the Commissioner for Trademarks, the Administrator for Policy and External Affairs, Chief Financial Officer, Chief Administrative Officer, or the General Counsel of the USPTO.

§ 2.06 The Secretary shall appoint a Commissioner for Patents and a Commissioner for Trademarks, each of whom shall serve for a five-year term. The Secretary may reappoint a Commissioner to subsequent five-year terms in accordance with PTOEA.

§ 2.07 The Under Secretary shall appoint such *other* officers, employees and agents of the Office as deemed necessary to carry out the functions of USPTO.